

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 THOMAS BURDSAL,

4 Plaintiff,

Case No. 3:23-cv-00074-MMD-CLB

ORDER

5 v.

6 SCOTT DAVIS, *et al.*,

7 Defendants.

8
9 Plaintiff has filed two identical motions requesting that the Court allow another
10 inmate, Willie R. Lewis, to assist him at the court-ordered mediation conference, or, in the
11 alternative, appoint Plaintiff counsel for the remainder of the case. (ECF Nos. 9, 10 at 1-
12 2.) In his motions, Plaintiff states that Lewis has been allowed to assist him during his
13 case so far. (*Id.* at 1-2.)

14 A litigant does not have a constitutional right to appointed counsel in 42 U.S.C. §
15 1983 civil rights claims. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981).
16 Pursuant to 28 U.S.C. § 1915(e)(1), “[t]he court may request an attorney to represent any
17 person unable to afford counsel.” However, the court will appoint counsel for indigent
18 civil litigants only in “exceptional circumstances.” *Palmer v. Valdez*, 560 F.3d 965, 970
19 (9th Cir. 2009) (§ 1983 action). “When determining whether ‘exceptional circumstances’
20 exist, a court must consider the likelihood of success on the merits as well as the ability
21 of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues
22 involved.” *Id.* “Neither of these considerations is dispositive and instead must be viewed
23 together.” *Id.*

24 In the instant case, the Court grants in part and denies in part Plaintiff’s motions.
25 (ECF Nos. 9, 10.) First, the Court grants Plaintiff’s request to have inmate Willie R. Lewis
26 attend the court-ordered mediation conference as a helper, assuming, however, that the
27 Office of the Attorney General of the State of Nevada or the Nevada Department of
28 Corrections (“NDOC”) have no objections to this arrangement. If either of these entities

1 has any safety or security concerns with Lewis assisting Plaintiff at the mediation
2 conference, they must file a motion with the Court by **July 21, 2023**. Second, the Court
3 does not find exceptional circumstances that warrant the appointment of counsel at this
4 time. Like many prisoners filing civil rights actions in this Court, Plaintiff alleges that he
5 has difficulty litigating his claims. Therefore, the Court does not find exceptional
6 circumstances that warrant the appointment of counsel and denies Plaintiff's request for
7 counsel without prejudice. (ECF Nos. 9, 10.)

8 DATED THIS 13th day of July 2023.

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11 UNITED STATES MAGISTRATE JUDGE

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